

Please replace indicated paragraphs of the specification as shown in the attached CLEAN VERSION OF THE AMENDMENTS TO THE SPECIFICATION.

IN THE CLAIMS:

Please amend claims 1-6 as shown in the attached MARKED-UP PREVIOUS VERSION OF THE CLAIMS.

Please replace claims 1-6 with the amended versions thereof as shown in the attached CLEAN COPY OF THE AMENDED AND NEW CLAIMS.

Please add new claims 7-18 as shown in the attached CLEAN COPY OF THE AMENDED AND NEW CLAIMS.

REMARKS

Applicants respectfully request reconsideration of this application, and reconsideration of the Office Action dated December 5, 2001 (Paper No. 6). Upon entry of this Amendment, claims 1-18 will be pending in this application. The amendments to the claims are supported by the specification and original claims. Specifically, the amendments to claim 1 are supported at page 5, lines 1-6 of the specification, and newly added claims 7-18 are supported by original claim 5 and page 5, lines 14-23 of the specification. No new matter is incorporated by this Amendment.

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As an initial matter, Applicants note the comment in the Office Action concerning the use of Trademarks. In response, Applicants have amended the specification to include the generic terminology of each of the Trademarks.

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Claims 2-6 are objected to because of informalities. The Office Action asserts that the claims use commas where decimal points should be used.

In response, the claims have been amended so that the numbers recited in the claims contain decimal points at the proper location.

The amendments to claims and above Remarks overcome this objection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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Claim 5 is rejected under 35 U.S.C. § 112, first paragraph, because while the specification is enabled for soybean lecithin and thickeners, the specification is not enabled for “any lecithin thickeners.”

Applicants note that claim 5, as originally presented, included a typographical error. Claim 5 inadvertently stated “any soybean lecithin thickeners.” As described on page 5, lines 14-24 of the specification, Applicants intended the claim to recite “and soybean lecithin, thickeners.” In other words, the terminology “soybean lecithin” is a specie of emulsifier, whereas the term “thickeners” represented a genus of which xanthan gum is a specie. Newly added claims 15 and 16 correctly define the invention.

The amendments to claims and above Remarks overcome this objection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

* * *

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection.

The Office Action asserts that claims 1 and 5 are indefinite because they recite the terms “such as” and “preferably.” In response, claims 1 and 5 have been amended to no longer include these terms. Furthermore, the claim elements recited after these terms are now recited in the newly added claims.

The Office Action also asserts that claim 2 is confusing because of the phrase “is present at a composition of about.” In response, claim 2 has been amended to recite “Vitamin C is present at a concentration of about.”

The Office Action further asserts that claims 4 and 5 are indefinite because it is unclear to what first group of microspheres the claims are referring. Claims 4 and 5 have been amended to clarify the claims refer to the same first group of microspheres introduced in claim 1.

23 The Office Action further assert that claim 5 is indefinite because it is unclear what is intended by the terms “skins structures”, “micronutrients of the skin”, “sensorial agents”, and “Carbopol 1342 associated to trietanolamin.” Applicants respectfully traverse this point of the rejection. The specification lists examples of each of “skins structures”, “micronutrients of the skin”, and “sensorial agents.” Furthermore, the specification and claims now recite the generic terminology for the term Carbopol 1342. Accordingly, Applicants respectfully submit that those of skill in the art would readily understand what is intended by these terms given the examples of each term in the specification.

Finally, the Office Action asserts that claim 5 is indefinite because it contains Trademarks. In response, claim 5 has been amended to no longer recite the Trademarks. Furthermore, newly added claims 15 and 16 recite the generic terminology associated with each of the Trademarks.

The amendments to claims and above Remarks overcome this objection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

* * *

Claims 1-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rinaldi et al. (U.S. Pat. No. 5,891,470). Applicants respectfully traverse this rejection.

The Office Action asserts that Rinaldi teaches every element of the claimed invention and thus anticipates the claimed invention.

Applicants invention, as defined in independent claim 1, describes a composition for enhancing the action of Vitamin A on the cellular activity of an individual. The composition includes a plurality of dispersed microspheres which are made of biologically active material (i.e. Talasferas). The microspheres also include Vitamin A and an antioxidant inserted into one group of microspheres, and Vitamin C inserted into a second group of microspheres.

Applicants have found that by employing their unique microparticles, the vitamin content of the microparticles can be lower. This is because the claimed invention employs microparticles which are biodegradable because they are made or composed of biologically active material, such as acetocollagen and polyholisides. Applicants' biodegradable particles are able to penetrate and permeate the skin. The vitamins contained within the particles are thus released through enzymatic reaction that occur near the biological targets on which they will act. Accordingly, the biologically active microparticles make it possible to use lower concentration of vitamins then is taught by the prior art.

Rinaldi neither teaches nor fairly suggest microparticles which are composed of biologically active material. In contrast, Rinaldi employs microparticles (i.e. Microsponge) which are made of inert material that does not penetrate the skin. See Column 7, Line 59. Accordingly, Rinaldi's microparticles remain on top of the skin and require higher concentrations of vitamins. Furthermore, the Microsponge particle of Rinaldi are placed within a "soft gel" which makes them not applicable for use in cosmetics. In conclusion, Rinaldi fails to teach or suggest every element of the claimed invention in that Rinaldi neither teaches nor fairly suggests using microparticles composed of talasferas. Accordingly, Rinaldi does not anticipate the claimed invention.

The amendments to claims and above Remarks overcome this objection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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Applicants respectfully submit that this Amendment and the above remarks obviate the outstanding objections and rejections in this case, thereby placing the application in condition for immediate allowance. Allowance of this application is earnestly solicited.

If any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300; Order No. 032286.006.

If an extension of time under 37 C.F.R. § 1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested. The extension fee should be charged to Deposit Account No. 02-4300; Order No. 032286.006.

Respectfully submitted,
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MARKED-UP PREVIOUS VERSION OF THE CLAIMS

1. (Amended) A [Composition] composition for enhancing the action of Vitamin A on the cellular activity of an individual, [characterized in that it contains] comprising a plurality of dispersed microspheres, said plurality of microspheres comprising Vitamin A and an antioxidant [preferably Vitamin E,] inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres;

wherein said microspheres are made of biologically active material.

2. (Amended) The [Composition] composition according to claim 1, [characterized in that] wherein Vitamin C is present at a [composition] concentration of about [0,02%] 0.02% by weight, and Vitamin A is present at a concentration of about [0,009%] 0.009% to [0,02%] 0.02% by weight, based on the total weight of the composition.

3. (Amended) The [Composition] composition according to claim 2, [characterized in that] wherein Vitamin C is contained in the second group of microspheres at a concentration of [0,02%] 0.02%.

4. (Amended) The [A] composition according to claim 3, [characterized in that it contains a] wherein the first group of microspheres [containing] contains Vitamin A at an average concentration of about [0,014%] 0.014% by weight, based on the total weight of the composition.

5. (Amended) The [A] composition according to claim 4, [characterized in that it contains a] wherein the first group of microspheres [containing] contains Vitamin A at an average concentration of [0,014%] 0.014% and Vitamin E at an average concentration of [0,0005%] 0.0005% by weight, and cosmetic compounds selected from the group consisting of skin structures[, preferably squalan and sphingolipide complexes], micronutrients of the skin, [preferably seaweed extract,] sensorial agents, [preferably moisturizers such as glycerin and hydroxy propylsilan C, emollients such as butylene glycol and cetyl lactate and silicones such as cyclomethicone,] solar protection factors [such as Parsol 1789 and Eusolex 6300], emulsifiers, [preferably Carbopol 1342 associated to trietanolamin any] soybean lectin thickeners, [preferably xanthan gum,] sequestrants, [preferably EDTA,] antioxidants [such as BHT and dl- α -tocopherol], fragrances, conservants, water and mixtures thereof.

6. (Amended) The [A] composition according to claim 1, [comprising] wherein the Vitamin C [association with] to Vitamin A [at a] weight [ration ranging] ratio ranges from about 1:1 to about 10:1 [of Vitamin C to Vitamin A].

MARKED-UP VERSION OF THE AMENDMENTS TO THE SPECIFICATION

Please replace the paragraph beginning at page 5, line 14 with the following paragraph:

A³
Advantageously, in association to the groups of microspheres previously mention, such a composition may further contain, in addition to Vitamin A and Vitamin E, and cosmetic compounds selected from the group consisting of skin structures, preferably squalan and sphingolipide complexes, micronutrients of the skin, preferably seaweed extract, sensorial agents, for example, moisturers such as glycerin and hydroxy prolisilan C, emollients such as butylene glycol and cethyl lactate and silicones such as cyclomethicone, solar protection factors such as Parsol 1789 (Butyl methoxydibenzoyl methane) and Eusolex 6300 (3-(4-methylbenzylidene) Camphor), emulsifiers, preferably Carbopol 1342 (acrylates/C10-30 alkyl acrylate crosspolymer) associated to trietanolamin and soybean lecitin, thickeners, preferably xanthan gum; sequestrants, preferably EDTA, antioxidants such as BHT and dl- α -tocopherol, fragrances, conservants, water and mixtures thereof.
